

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RON E. EVERSOLE,)	
Plaintiff,)	
)	
vs.)	1:08-cv-1137-TWP-DML
)	
SPURLINO MATERIALS OF)	
INDIANAPOLIS, LLC and JAMES)	
SPURLINO,)	
Defendants.)	

ENTRY DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

This is an employment related action brought pursuant to federal civil rights laws, more specifically Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981, and the common law of Indiana. On March 22, 2010, the Defendants filed a Motion For Summary Judgment (Doc. # 69), seeking a judgment in their favor on all of the Plaintiff's claims. A month after the summary judgment motion was filed, the Plaintiff was fired from his job with one of the Defendants, prompting his filing of a motion seeking to further amend his complaint to address issues of retaliation and additional discrimination (Doc. # 76). That motion was granted by the Court on May 10, 2010 and the Plaintiff's Fourth Amended Complaint was deemed filed on that date.

In response to the summary judgment motion, Plaintiff has filed a motion which asks us either to summarily deny Defendants' summary judgment motion under Fed.R.Civ.P. 56(f) or continue the matter to allow additional discovery. Plaintiff

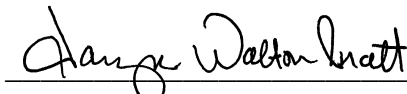
maintains that his Fourth Amended Complaint raises new claims and issues upon which further discovery is necessary. We agree. Clearly, there are now additional factual circumstances which necessitate further investigation and discovery, including the gathering of additional deposition or affidavit testimony.

Accordingly, Defendants' Motion For Summary Judgment is DENIED pursuant to Fed.R.Civ.P. 56(f), without prejudice to refiling following completion of discovery. Plaintiff's Motion For Order Pursuant to Rule 56(f) is GRANTED.

A copy of this order will be provided to Magistrate Judge Debra McVicker Lynch with a request that her chambers contact counsel for a conference before the Magistrate to discuss and set the parameters of further discovery in this matter as well as any necessary changes to the Case Management Plan.

The Jury Trial set for August 30, 2010 and the Final Pretrial Conference set for August 13, 2010 are hereby VACATED. The Court will set new dates as needed under separate order.

IT IS SO ORDERED THIS 7th DAY OF JULY, 2010.


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

Copies to:

Lynn M. Eriks
SCOPELITIS GARVIN LIGHT HANSON & FEARY PC
leriks@scopelitis.com

Alvin Jackson Finklea III
SCOPELITIS GARVIN LIGHT & HANSON
jfinklea@scopelitis.com

James H. Hanson
SCOPELITIS GARVIN LIGHT HANSON & FEARY PC
jhanson@scopelitis.com

Tamika Lynn Henderson
tamikalhenderson@hotmail.com

Caitlin M King
HUNT, HASSLER & LORENZ
king@huntlawfirm.net

Robert Peter Kondras Jr.
HUNT HASSLER & LORENZ LLP
kondras@huntlawfirm.net

Magistrate Judge Debra McVicker Lynch